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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,920	07/30/2003	Yoshimasa Masuoka	843.42990X00	7534

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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
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SUITE 370
ALEXANDRIA, VA 22314

EXAMINER

MEUCCI, MICHAEL D

ART UNIT	PAPER NUMBER
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2142

MAIL DATE	DELIVERY MODE
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05/11/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/629,920

Applicant(s)

MASUOKA ET AL.

Examiner

Michael D. Meucci

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 4, 5, 9 and 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7 and 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 07/30/03
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.
2. Applicant's election without traverse of claims 1-3, 7, and 8 in the reply filed on 15 February 2007 is acknowledged. Claims 4, 5, 9, and 10 have been withdrawn from consideration.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. It appears that the claims are machine-translated versions of the original claims from the parent Japanese application. The claims are replete with grammatical errors and multiple instances of terminology that lack antecedent basis. Any instances of similar claim terminology in dependent claims are similarly rejected. The examiner implores cooperation by the applicant for any and all issues regarding the correction of the claim language. The examiner highly recommends a complete reconstruction/redraft of the claims to correct any errors.
5. Claims 1-3, 7, and 8 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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a. Claim 1 recites the limitation "the first computer(s)" in lines 5-6, 9-10, and 12 of the claim. There is insufficient antecedent basis for this limitation in the claim. The examiner is unable to differentiate between the multiple occurrences of this term due to lack of punctuation and similar terminology. For the purpose of applying art, it is presumed by the examiner that the second occurrence of the term is meant to disclose a computer from the group of at least one first computers. The examiner recommends rewriting the claims, beginning with "in at least one first computer," to differentiate between terms to better define the claims. In addition, each instance of "the first computer" lacks antecedent basis in the case that the "at least one first computer" as recited in line 3 of the claim includes more than one computer. Correction is required.

b. Claim 1 recites the limitation "the agent" in lines 9-10 and 12 of the claim. There is insufficient antecedent basis for this limitation in the claim. Each instance of "the agent" lacks antecedent basis in the case that the "at least one agent" as recited in lines 4-5 of the claim includes more than one agent. Correction is required.

c. Claim 1 recites the limitation "the record" in line 11 of the claim. There is insufficient antecedent basis for this limitation in the claim. Correction is required.

d. Claim 2 recites the limitation "the address" in lines 5, 9, and 12 of the claim. There is insufficient antecedent basis for this limitation in the claim. Correction is required.

e. Claim 2 recites the limitation "the monitored packet" in line 6 of the claim. There is insufficient antecedent basis for this limitation in the claim. Correction is required.

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f. Claim 2 recites the limitation "the transmitted message" in line 11 of the claim. There is insufficient antecedent basis for this limitation in the claim. Correction is required.

g. Claim 2 is indefinite because it is unclear whether all of the limitations of the claim are required in the prior art due to the "and/or" terminology on line 6. For the purpose of applying art, it will be presumed by the examiner that --or-- is disclosed in this instance. Clarification is required.

h. Claim 3 is indefinite because it is unclear what is meant by: "communicating with a network device constituting the network in the second computer" as disclosed on lines 3-4 of the claim. For the purpose of applying art, it will be presumed by the examiner that --communicating with a network device in the second computer-- is disclosed in this instance. Clarification is required.

i. Claim 7 recites the limitation "the first computer" in lines 7, 10-11, and 13-14 of the claim. There is insufficient antecedent basis for this limitation in the claim. The examiner is unable to differentiate between the multiple occurrences of this term due to lack of punctuation and similar terminology. For the purpose of applying art, it is presumed by the examiner that the second occurrence of the term is meant to disclose: a computer from the group of at least one first computers. The examiner recommends rewriting the claims, beginning with "in at least one first computer," to differentiate between terms to better define the claims. In addition, each instance of "the first computer" lacks antecedent basis in the case that the "at least one first computer" as recited in line 3 of the claim includes more than one computer. Correction is required.

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j. Claim 7 recites the limitation "the agent" in lines 11 and 13 of the claim. There is insufficient antecedent basis for this limitation in the claim. Each instance of "the agent" lacks antecedent basis in the case that the "at least one agent" as recited in line 6 of the claim includes more than one agent. Correction is required.

k. Claim 7 recites the limitation "the record" in line 12 of the claim. There is insufficient antecedent basis for this limitation in the claim. Correction is required.

l. Claim 8 recites the limitation "the address" in lines 7, 11, and 14 of the claim. There is insufficient antecedent basis for this limitation in the claim. Correction is required.

m. Claim 8 is indefinite because it is unclear whether all of the limitations of the claim are required in the prior art due to the "and/or" terminology on line 8. For the purpose of applying art, it will be presumed by the examiner that --or-- is disclosed in this instance. Clarification is required.

n. Claim 8 recites the limitation "the monitored packet" in line 8 of the claim. There is insufficient antecedent basis for this limitation in the claim. Correction is required.

n. Claim 8 recites the limitation "the agent" in line 10 of the claim. There is insufficient antecedent basis for this limitation in the claim. Correction is required.

o. Claim 8 recites the limitation "the transmitted packet" in line 13 of the claim. There is insufficient antecedent basis for this limitation in the claim. Correction is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-3, 7, and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Balsamo et al. (U.S. 2002/0099806 A1) hereinafter referred to as Balsamo.

a. As per claim 1, Balsamo teaches: a first step of, in at least one first computer connected to a network and executing an application, executing at least collect an operation history in the first one agent to computer (paragraph [0056] on pages 4-5); a second step of, in at least one second computer connected to the network and monitoring the network, monitoring and recording the presence of the first computer in which the agent is not executed (paragraph [0056] on pages 4-5); and a third step of inspecting the record to check whether or not the agent is executed in all the first computers constituting the information system (paragraph [0056] on pages 4-5).

b. As per claim 2, Balsamo teaches: wherein the second step includes: a step of monitoring a packet flowing in the network in the second computer (paragraph [0056] on pages 4-5); a step of extracting the address of a transmission source or a transmission destination from the monitored packet in the second computer (paragraph [0056] on pages 4-5); a step of transmitting a message to the agent of the first computer

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corresponding to the address in the second computer (paragraph [0056] on pages 4-5); and a step of checking a response to the transmitted message in the second computer to record the address of the first computer having no response (paragraph [0056] on pages 4-5).

c. As per claim 3, Balsamo teaches: wherein the second step includes: a step of communicating with a network device constituting the network in the second computer to obtain an address list of the first computer connected to the network device (paragraph [0056] on pages 4-5); a step of transmitting a message to the agent of the first computer corresponding to an address in the obtained address list in the second computer (paragraph [0056] on pages 4-5); a step of checking a response to the transmitted message in the second computer to record the address of the first computer having no response (paragraph [0056] on pages 4-5).

d. Claims 7 and 8 contain limitations similar to those in claims 1-3 and are rejected under the same rationale.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Carmello et al. (U.S. 6,425,000 B1) discloses network monitoring of packets, address extraction, and logging.

Zhu et al. (U.S. 6,901,448 B2) discloses network monitoring and logging.

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Chong et al. (U.S. 7,174,534 B2) discloses network monitoring, logging, and alarms.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Meucci at (571) 272-3892. The examiner can normally be reached on Monday-Friday from 9:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell, can be reached at (571) 272-3868. The fax phone number for this Group is 571-273-8300.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [michael.meucci@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status

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information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Beatriz Prieto
BEATRIZ PRIETO
PRIMARY EXAMINER